

Remarks

Reconsideration of the application is respectfully requested in view of the foregoing amendments and following remarks. Claims 1-8, 11-15, 17-20, 22-34 are pending in the application. No claims have been allowed. Claims 1, 12, 13, 17, 24, 27 and 28 are independent. Claims 1, 12, 13, 17, 24, 27, and 28 have been amended. Claims 9, 10, and 14 have been canceled without disclaimer or prejudice to renewal. Claims 33 and 34 have been added.

Cited Art

The Office Action cites U.S. Patent No. 5,586,304 to Stupek, Jr. et al. ("Stupek"), U.S. Patent No. 5,493,682 to Tyra et al. ("Tyra"), U.S. Patent No. 6,349,408 to Smith ("Smith"), and U.S. Patent No. 6,802,061 to Parthasarathy ("Parthasarathy").

Title

Applicants have amended the title as suggested by the Examiner.

§ 103 Rejections

The Action rejected claims 1-9, 11-15, 17-20, 22-29, and 32 under 35 U.S.C. § 103(a) as unpatentable over Stupek in view of Tyra and Smith, and claims 10, 30, and 31 in further view of Parthasarathy. Applicants respectfully submit the claims in their present form are allowable over the cited art.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2142. Motivations to combine or modify references must come from the references themselves or be within the body of knowledge in the art. MPEP § 2143.01.

Claims 1, 12, 13, 17, 24, 27 and 28

Claims 1, 12, 13, 17, 24, 27 and 28 have been amended. Amended claim 1 reads as follows (emphasis added):

wherein at least one of the software dependencies specifies a plurality of software items forming a software package, *wherein the software package comprises a mixture of native code components and platform-independent code components;*

Amended claim 12 reads as follows (emphasis added):

wherein at least one of the software dependencies specifies a plurality of software items forming a software package, *wherein the software package comprises a mixture of native code components and platform-independent code components;*

Amended claim 13 reads as follows (emphasis added):

wherein the name of the software dependency is associated with a *software package comprising a plurality of software components, wherein the plurality of software components comprises a mixture of native code components and platform-independent code components.*

Amended claim 17 reads as follows (emphasis added):

wherein the name is operable to specify a plurality of software components, wherein the name is associated with a *software package comprising the plurality of software components, wherein the plurality of software components comprises a mixture of native code components and platform-independent code components,*

Amended claim 24 reads as follows (emphasis added):

and wherein at least one of the other *software packages comprises a plurality of software components, wherein the plurality of software components comprises a mixture of native code components and platform-independent code components;*

Amended claim 27 reads as follows (emphasis added):

A computer-readable medium comprising a software distribution package for installing software at a computer, wherein the software distribution package comprises:

one or more a plurality of items for installation at the computer, *wherein the plurality of items comprise a mixture of native code components and platform-independent code components;* and

Amended claim 28 reads as follows (emphasis added):

wherein at least one of the dependencies is associated with a *software package comprising a plurality of software components, wherein the plurality of software components comprises a mixture of native code components and platform-independent code components*;

Support for the above amendments to claims 1, 12, 13, 17, 24, 27 and 28 can be found, for example, in original claims 9, 10, and 14. Further support can be found in the Application at page 12, line 17 to page 13, line 2, which describes grouping native and platform-independent components into a distribution unit as follows:

Fred's Software Company logically groups the components for the CoolestApp together into a "distribution unit" 209. The components can include platform-specific compiled binary files such as dynamic linking library (.dll) files used by the Microsoft Windows family of operating systems, Java bytecode (.class) files, or files that contain optional installation instructions for how to use certain components contained in the distribution unit, for example, ActiveX controls may need to be registered before use.

Parthasarathy's description of a control file used to determine the location of software components does not teach or suggest a software package comprising "a mixture of native code components and platform-independent code components" as recited by claims 1, 12, 13, 17, 24, 27 and 28. The Examiner argues that Parthasarathy "discloses in an analogous computer system software package comprises a mixture of native code components and Java classes." Action, p. 16. The Examiner cites to Parthasarathy col. 3, lines 18-24, which states:

The software components are not limited to the display of multimedia information. Almost any software component can be downloaded, verified, and installed via the described method and system, whether it is an ACTIVEX Control, a NETSCAPE ONE Plugin, a JAVA class library, a multimedia player, a document viewer, or a custom control or applet for inclusion on a digital form or a digital document.

Parthasarathy further describes a "control file" that "is used to determine the location of the software components on one or more remote computers 44 to download to the location computer 36." Parthasarathy, col. 9, lines 24-42.

However, the above description in Parthasarathy only describes that various types of software components can be downloaded, and that a control file can be used to determine the location of various types of software components. Parthasarathy does not teach or suggest

“wherein at least one of the software dependencies specifies a plurality of software items forming a software package, *wherein the software package comprises a mixture of native code components and platform-independent code components*” as recited by claim 1, or the similar language of claims 12, 13, 17, 24, 27, and 28 recited above.

Furthermore, as understood by Applicants, Stupek, separately or in combination with Tyra and/or Smith, does not teach or suggest the above-cited language of claims 1, 12, 13, 17, 24, 27 and 28 respectively. Therefore, claims 1, 12, 13, 17, 24, 27 and 28 should be in condition for allowance.

Claims 2-8, 11, 15, 18-20, 22, 23, 25, 26, 29-31, and 32-34

Claims 2-8, 11, and 32-34 ultimately depend on claim 1. Thus, for at least the reasons set forth above with regard to claim 1, claims 2-8, 11, and 32-34 should be in condition for allowance.

Claim 15 depends on claim 13. Thus, for at least the reasons set forth above with regard to claim 13, claim 15 should be in condition for allowance.

Claims 18-20, 22, and 23 depend on claim 17. Thus, for at least the reasons set forth above with regard to claim 17, claims 18-20, 22, and 23 should be in condition for allowance.

Claims 25 and 26 ultimately depend on claim 24. Thus, for at least the reasons set forth above with regard to claim 24, claims 25 and 26 should be in condition for allowance.

Claims 29-31 depend on claim 28. Thus, for at least the reasons set forth above with regard to claim 28, claims 29-31 should be in condition for allowance.

New Claims 33 and 34

New claims 33 and 34, depending from claim 1, have been added. Support for claim 33 can be found, for example, in the Application at page 5, lines 8-11 and page 15, lines 10-16. Support for claim 34 can be found, for example, in the Application at page 12, line 17 to page 13, line 1. Claims 33 and 34, depending from claim 1, should be allowable for at least the reasons set forth above with regard to claim 1.

Request for Interview

If any issues remain, the Examiner is formally requested to contact the undersigned attorney prior to issuance of the next Office Action in order to arrange a telephonic interview. It is believed that a brief discussion of the merits of the present application may expedite prosecution. Applicants submit the foregoing formal Amendment so that the Examiner may fully evaluate Applicants' position, thereby enabling the interview to be more focused.

This request is being submitted under MPEP § 713.01, which indicates that an interview may be arranged in advance by a written request.

Conclusion

The claims in their present form should now be allowable. Such action is respectfully requested.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

By /Cory A. Jones/
Cory A. Jones
Registration No. 55,307